

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 30 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

Marenta Tanze Ayimale,

Petitioner,

v.

Merrick B. Garland, U.S. Attorney
General,

Respondent.

No. 21-476

Agency No. A213-190-570

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 27, 2023**
San Francisco, California

Before: BOGGS,*** M. SMITH, and OWENS, Circuit Judges

Marenta Tanze Ayimale, a native and citizen of Cameroon, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion for reconsideration of the BIA’s dismissal of her appeal of the Immigration Judge’s (“IJ”) decision denying her application for asylum, withholding of

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Danny J. Boggs, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

removal, and protection under the Convention Against Torture (“CAT”). We review the denial of a motion for reconsideration for abuse of discretion. *Ayala v. Sessions*, 855 F.3d 1012, 1020 (9th Cir. 2017) (citation omitted). As the parties are familiar with the facts, we do not recount them here. We have jurisdiction under 8 U.S.C. § 1252 and deny the petition.

Nowhere in her brief does Ayimale state how the BIA abused its discretion in denying her motion for reconsideration; she thereby waived this issue. *See Cui v. Garland*, 13 F.4th 991, 999 n.6 (9th Cir. 2021) (holding that a petitioner waived an issue by failing to make substantive arguments in her brief). While she argues that the IJ and BIA erroneously concluded that she was not credible in the underlying decisions denying relief, Ayimale does not contend that the BIA’s denial of the motion for reconsideration was “arbitrary, irrational, or contrary to law.” *Lona v. Barr*, 958 F.3d 1225, 1229 (9th Cir. 2020) (citation omitted).

Even if this issue were not waived, the BIA did not abuse its discretion in denying Ayimale’s motion. In her motion for reconsideration, she alleged that the BIA erred in upholding the IJ’s denial because the agency failed to consider the totality of the circumstances when evaluating her credibility. However, the BIA properly considered this argument and rejected it, noting that Ayimale failed to show she could overcome the adverse credibility finding even with additional evidence and the BIA had already considered and declined to credit her explanation for the discrepancies in her testimony. Accordingly, she failed

to show an “error[] of fact or law in the prior Board decision,” 8 C.F.R. § 1003.2(b)(1), and we find no abuse of discretion in the BIA’s order denying Ayimale’s motion.

To the extent that Ayimale seeks review of the underlying BIA decision affirming the denial of her application for asylum, withholding of removal, and CAT protection, we lack jurisdiction because Ayimale’s petition for review is not timely as to that order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003) (citation omitted). The time limit is “mandatory and jurisdictional.” *Id.* (citation omitted).

PETITION DENIED.